

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DELROY FISCHER,

Defendant.

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8:08CR471

ORDER

This matter is before the court on the motion to continue by counsel for the government (Filing No. 81). Counsel represents that an essential witness will be unavailable for trial due to a military deployment. Counsel seeks a continuance of the trial scheduled for March 1, 2010. Counsel for the government represents that counsel for defendant Delroy Fischer has no objections to the motion. Upon consideration, the motion will be granted.

IT IS ORDERED:

1. The motion to continue trial (Filing No. 81) is granted.
2. Trial of this matter is re-scheduled for **April 26, 2010**, before Chief Judge Joseph F. Bataillon and a jury. The ends of justice have been served by granting such motion and outweigh the interests of the public and the defendant in a speedy trial. The additional **time** arising as a result of the granting of the motion, i.e., the time between **February 25, 2010 and April 26, 2010**, shall be deemed **excludable** time in any computation of time under the requirement of the Speedy Trial Act for the reason that an essential witness is unavailable for trial. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(3)(A).

DATED this 25th day of February, 2010.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge